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California Capitol Hill Bulletin

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To expand communications between Washington and California, the California Institute provides periodic faxed bulletins regarding current activity on Capitol Hill which directly impacts our state. Bulletins are published weekly during sessions of Congress, and occasionally during other periods. The e-mail edition is made possible in part by in kind donations from Sun Microsystems and Qualcomm, Inc.

JUDICIARY COMMITTEE MARKS UP ENCRYPTION BILL

The House Judiciary Committee marked up H.R. 850, the Security and Freedom Through Encryption bill on Wednesday, March 24. The bill was approved the bill by voice vote without amendment. The bill is aimed at easing U.S. export controls on encryption products and software to ensure that U.S. global competitiveness is not undermined. It clarifies that it is legal for any person in the U.S. or any U.S. person in a foreign country to use or sell any form of encryption. It also prohibits the federal government from requiring a key recovery system to provide access to the system through a third-party. Finally, it allows the export of very strong, generally available, encryption technology after a one-time, 15-day technical review by the government. See, *Bulletin, Vol. 6, Nos. 6 (2/25/99) & 8 (3/11/99)*.

During consideration of the bill, Rep. Bill McCollum (FL) offered an amendment that would have required all exported encryption products to contain the capability to make plain text accessible to law enforcement authorities under a court order. The amendment, in effect, would have required that a key recovery, or comparable system, be contained in encryption products, which is opposed by the industry. The amendment, however, was rule out of order as non-germane because it fell within the provisions of the bill under the jurisdiction of the International Relations Committee, not the Judiciary Committee.

DELEGATION CIRCULATING FY2000 SCAAP LETTER; NEARLY ALL HAVE SIGNED

The California Congressional Delegation is circulating a Dear Colleague asking for signatures on a letter to Chairman Hal Rogers of the Commerce, Justice, State Appropriations Subcommittee. The letter urges the subcommittee to include the full \$650 million authorized for the State Criminal Alien Assistance Program (SCAAP) in its FY2000 appropriations. SCAAP funds are provided to state and local governments to partially reimburse the costs of incarcerating illegal criminal aliens.

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California reported that in 1997-98 it spent \$663 million annually to incarcerate illegal criminal aliens, which is roughly three times more than it has received in past annual reimbursements from the federal government. In addition, although the current SCAAP authorization level is only \$650 million, nationally state and county jurisdictions apply for about \$1.46 billion in SCAAP reimbursements annually.

In each of the last two years, all 52 members of the delegation have signed similar letters requesting SCAAP funds. Members wishing to sign the letter should contact Brian Faughnan in Rep. Dreier's office at x52305, or Lynn Marquis in Rep. Condit's office at x56131.

SENATE JUDICIARY REPORTS Y2K LIABILITY BILL

The Senate Judiciary Committee, by a vote of 10-7, favorably reported out an amendment in the nature of a substitute to S. 461 on March 25. The bill limits the liability of companies sued for Year 2000 computer glitches and is intended to encourage remediation of problems rather than litigation. *See, Bulletin, Vol. 6, Nos. 6 (2/25/99), 7 (3/3/99) & 8 (3/11/99).* Sens. Dianne Feinstein and Orrin Hatch (UT) are the prime sponsors of the legislation.

During the markup, the Committee rejected two amendments. The first, offered by Sen. Patrick Leahy (VT), would have exempted from coverage of the bill individual consumers. It was defeated by a vote of 7-10. The second, offered by Sen. Russ Feingold (WI), would have prohibited state law preemption on punitive damage awards and the liability of company officers and directors. It was defeated, 8-9.

The Committee's substitute leaves intact the major provisions of the bill, including a 90 day cooling off period, and proportionate, rather than joint and several liability. It changes the cap on punitive damages to three times compensatory losses, rather than actual losses, and clarifies that the doctrine of comparative, not contributory, negligence governs suits.

At the markup, Chairman Hatch stressed that S. 461 is still a work in progress, and he will continue to negotiate with other Senators and parties to develop a consensus before the bill is taken to the Senate floor. The Senate Commerce Committee has also reported out a similar bill, S. 96 on March 3.

SEMICONDUCTOR DEPRECIATION BILL GARNERING CO-SPONSORS

H.R. 1092, the Semiconductor Equipment Investment Act of 1999, continues to garner co-sponsors. Currently, it has 34 co-sponsors, 24 of whom are Californians from both sides of the aisle. The bill would reduce the tax depreciation on semiconductor equipment from five years to three, to more accurately reflect its useful life. Reps. Bob Matsui (Sacramento) and Nancy Johnson (CT) are the chief authors of the bill, and Rep. Tom Campbell is championing the bill for California Republicans.

The bill is strongly supported by California's semiconductor and semiconductor equipment manufacturers, which account for over 100,000 jobs in California. *See, Bulletin, Vol. 6, No. 8 (3/11/99).*

Members wishing to co-sponsor should contact Francis Grab in Rep. Matsui's office (x57163) or Todd Funk in Rep. Johnson's office (x54476).

REP. BONO SEEKING CO-SPONSORS FOR PRODUCE LABELING BILL

Rep. Mary Bono (Palm Springs) has introduced H.R. 1145, the "Produce Consumers Right-To-Know Act," which would require grocers to label produce, both U.S. and foreign, as to the country of origin. The bill is intended to provide consumers with information on the origin of fruits and vegetable and as a public safety measure to allow identification of any produce that causes a health hazard in the U.S. It is substantially similar to H.R. 1232, which was introduced in the 105th Congress by her late husband, Sonny Bono. On introduction of the bill, Ms. Bono stated that the General Accounting Office

estimates that the U.S. receives 2.5 million shipments of fresh fruit and vegetable annually, but has no labeling requirement. On the other hand, 22 of the United States' trading partners, including Japan, Mexico, and Canada, require some type of produce labeling.

Members wishing to co-sponsor the bill should contact Chris Katopkis in Rep. Bono's office at x55330.

REPS. RADANOVICH AND THOMPSON FORMING WINE CAUCUS

Reps. Mike Thompson (St. Helena) and George Radanovich (Mariposa) are circulating a Dear Colleague letter, signed by 22 Members, seeking charter members of the bipartisan, bicameral Wine Caucus. The purpose of the Caucus is to provide education and information about wine to Members of Congress, and keep the industry informed about wine-related developments at the federal level. Congressional Members of the Wine Caucus will be able to meet with vintners and leaders in the wine industry. They will also have the opportunity to attend tasting receptions and dinners.

The letter notes that the wine industry contributes over \$45 billion to the U.S. economy, along with 556,000 jobs, accounting for \$12.8 billion in wages and \$3.3 billion in state and local tax revenue. It cites wine as the third largest horticulture export in the nation.

Members may contact Tom LaFaille with Rep. Thompson (5-3311) or Tricia Geringer with Rep. Radanovich (5-4540) to join the group.

PPIC BRIEFING ON JOB PROSPECTS FOR WELFARE RECIPIENTS SET FOR APRIL 13

Experts from the Public Policy Institute of California (PPIC) will be in Washington on April 13 to brief California Congressional delegation members, staff and others regarding their soon-to-be-released work regarding the job prospects of California welfare recipients. The upcoming study, authored by PPIC's Hans Johnson and Sonya Tafoya, examines the skill levels of current and former welfare recipients in the state and how that translates to employability. PPIC President and CEO David Lyon will be on hand to introduce the speakers and participate in the discussion.

Federal welfare reform, enacted in 1996, enables states to exempt up to 20% of their caseload from welfare-to-work deadlines. Johnson's and Tafoya's work will examine the adequacy of this provision in the context of California's current experience. For more information on the PPIC's activities, refer to their website at: <http://www.ppic.org>.

The brief event will be held at 10:30 a.m. on Tuesday, April 13, 1999, in Room 311, Cannon House Office Building. Our thanks to Rep. Juanita Millender-McDonald for her assistance in securing the room.

MTBE DEBATE WIDENS

State Assembly Speaker Antonio Villaraigosa on Tuesday called for a state probe into the safety of MTBE and the health effects of dumping hundreds of pounds of the gasoline additive each day into Santa Monica Bay and other Coastal waters. In a letter to state Environmental Protection Agency Secretary Winston Hickox, Villaraigosa stated he wants to "ascertain the public health risks and environmental impacts associated with the discharge of these unregulated amounts of MTBE into the marine environment." (MTBE, or methyl tertiary butyl ether, is an additive that helps gasoline burn more completely.)

Governor Gray Davis is obligated by law to decide by Saturday whether MTBE is a threat to public health, and if so, what should be done about it. He has said that he will make his decision known on Friday, March 26. If MTBE is banned outright, or phased out, a substitute additive will need to be used. At this point, ethanol seems to be the only viable possibility, according to experts.

At the federal level, Senator Dianne Feinstein introduced another MTBE-related bill (S. 645) on March 17, adding to the three she introduced in January. Rep. Brian Bilbray (San Diego) has introduced MTBE legislation in the House. Sen. Feinstein's latest bill would allow any state to halt the use of MTBE. The Environmental Protection Agency could give states an MTBE waiver if they meet federal air pollution standards without the use of an oxygenate. For more background on MTBE, see, [*Bulletin, Vol. 6, No. 4 \(2/4/99\)*](#).

HEADWATERS DEVELOPMENTS

In the recent Headwaters Forest deal, Pacific Lumber sold approximately 10,000 acres of old-growth conifers to the state and federal governments for \$480 million and agreed to follow tough guidelines for logging in the remaining 210,000 acres of company-owned land as described in the Habitat Conservation Plan (HCP).

Petrolia rancher Michael Evenson filed two lawsuits against the California Department of Forestry and Fire Protection (CDF) last year, charging that the agency violated state law by approving two timber harvest plans submitted by Pacific Lumber Co. On March 9, a Humboldt County Superior Court Judge ruled in favor of Evenson. Judge Bruce Watson said that CDF did not adequately consider the cumulative environmental impact of clear-cutting on the area in question, specifically erosion and road-building on hillsides that feed directly into the Mattole River. The judge said CDF also ignored the concerns of other state and federal government agencies about endangered species, such as coho salmon, and about water quality. In his ruling, the judge ordered the state to halt a single Pacific Lumber logging permit for 185 acres.

In a separate matter, several longtime Humboldt County landowners are now suing state officials and the 130-year-old Pacific Lumber Co. to take responsibility for an increase in mudslides, silt-clogged streams and ruined property downstream from logging operations on 200,000 acres Pacific Lumber owns near Jones Prarie.

CITRUS FREEZE UPDATE

There has been ongoing progress in aid to growers and workers hurt by last December's citrus freeze. On Tuesday, Governor Gray Davis announced expansion of federal freeze relief to include temporary housing, crisis counseling, and food coupons, distribution, and commodities. State legislation designed to mitigate some of the effects of last December's freeze have also continued to make progress. On Monday, the State Senate passed SB 1303, by Sen. Hilda Solis (El Monte) which would help farm workers, living on a combination of unemployment benefits and part-time work as a result of the freeze, by allowing them to earn up to \$200 a week without losing any unemployment benefits. Under current law, benefits are reduced if a recipient earns more than \$25 a week, or 25 percent of unemployment benefits, whichever is greater. It now goes to the Assembly for consideration.

Assemblywoman Sarah Reyes' (Fresno) bill, AB542, would allow \$1.867 million in federal funds to be distributed to nonprofit community groups to hire displaced workers through June 30, 2000. An estimated 225 to 500 workers would be employed for a variety of projects that may include helping farmers to clean up their orchards damaged by the freeze. The bill passed the Assembly Labor and Employment Committee on Tuesday, and the Assembly Appropriations Committee on Wednesday.

New figures on the damage done by the freeze continue to become available. Based on newly assessed Valencia orange crop losses, Fresno County has announced the county's total citrus damage is now \$86.3 million. Kern County officials estimate its total citrus loss at \$191 million. California Citrus Mutual President Joel Nelson has said that even those orange crops that survived the freeze are slow in

selling, because the publicity around the freeze resulted in buyer reluctance. For additional information on the freeze and related legislation, see *Bulletin*, Vol. 6, [Nos. 6 \(2/25/99\)](#) & [8 \(3/4/99\)](#).

JUDICIARY SUBCOMMITTEE HOLDS HEARING ON PATENT REFORM BILL

The Courts and Intellectual Property Subcommittee of the House Judiciary Committee held a hearing on March 25 on proposed legislation to reform U.S. patent laws to bring them into harmony with those of other countries. The draft bill, American Inventors Protection Act, has not yet been introduced by Rep. Howard Coble (NC). Congress considered similar legislation in 1997, but did not complete action on the bill because of controversy over several provisions, including the length and start date of the patent term, how to reform the U.S. Patent and Trademark Office's reexam process, the prior domestic commercial use defense, and when a patent application should be published.

At Thursday's hearing, the subcommittee heard from two California members: Reps. Tom Campbell (Campbell) and Dana Rohrabacher (Huntington Beach). Rep. Campbell testified that he continued to have concerns with the bill's provisions concerning the reexam process, prior domestic commercial use, and the requirement that applications be published 18 months after filing. Rep. Rohrabacher thanked the Chair for working with him and expressed hope that they would be able to agree on a unified House position on the legislation. He testified that his goal has always been to guarantee a 17-year patent term, whether by delaying the term start until the patent is issued or by requiring the PTO to grant term extensions to non-dilatory applicants during the issuance process. He also stressed that publication in the United States must not be required prior to publication abroad, and the content of the application published in the United States must be no greater than that published by the foreign patent system. On the issue of reexam reform, Rep. Rohrabacher testified that reform should not expose the PTO to an adversarial courtroom setting, and, therefore, no oral arguments should be permitted.

Copies of all of the witnesses testimony can be obtained from the Judiciary Committee's website at: <http://www.house.gov/~judiciary> .

STARK CIRCULATING LETTER SEEKING SUPPORT FOR CUEREC EXPANSION

California Members of Congress are circulating a letter seeking appropriations of \$1.9 million for the California Urban Environmental Research and Education Center (CUEREC) as it seeks to expand its program to include all California universities, both public and private. CUEREC, established by Congress in 1994 with EPA funds, is centered at CSU Hayward, though it has partnerships in various areas, including the Santa Monica Mountains Conservancy, the Monterey Bay National Marine Sanctuary, and the Presidio of San Francisco. Current plans include expansion to the Central Valley, the San Diego region, and the Inland Empire, and the center hopes to fund thirty to forty projects one day.

The letter, led by Rep. Pete Stark (Fremont), suggests that the center "involves local people solving local problems with local inputs and responsibility to promote sustainable development in our communities."

For further information regarding CUEREC, see <http://barney.sbe.csuhayward.edu/~cuerec/> .

A bipartisan group of roughly half of California's Members have signed the letter. Staff to Members wishing to sign the letter should contact Jill Semans with Rep. Stark at x5-5065.

Y2K SMALL BUSINESS LOAN BILL GOES TO THE PRESIDENT

The House passed a measure (S. 314) by voice vote on Tuesday which authorizes the Small Business Administration (SBA) to establish a program guaranteeing loans for small businesses attempting to either fix their computers or cope with economic losses resulting from its own or supplier computer

breakdowns as a result of the Year 2000 problem. Current law limits loan guarantees by the SBA to \$750,000, but S. 314 would allow the SBA to guarantee loans of up to \$1 million for Y2K readiness.

Studies have shown that up to 750,000 small businesses could be significantly hurt or forced to shut down because of Y2K problems. Under S. 314, the SBA is expected to guarantee approximately \$500 million in loans through the completion of the program on December 31, 2000. The Senate passed the measure by a vote of 99-0 on March 2, and it now goes to the President.

In other Y2K news this week, a report written by a Connecticut consulting firm called the GartnerGroup was released at a San Diego high-tech industry conference discussing Y2K global ramifications. The report was based in part on quarterly surveys of 15,000 companies in 87 countries. It found companies and governments in the US, Australia, Belgium, Bermuda, Canada, Denmark, Holland, Ireland, Israel, Sweden, Switzerland, and the United Kingdom to be the best prepared. It also warns that Russia, China and many less-developed countries may face widespread power outages and civil unrest as a result of Y2K problems. Lou Marcoccio, the author of the report, has said that from "a global perspective, this is very serious...But domestically, I don't predict much of a problem." Jack Gribben, a spokesman for the President's Council on Year 2000 Conversion has said that U.S. and Russian officials are working together to correct defense-related Y2K problems, and that widespread Y2K problems could disrupt international trade and create inconveniences for travelers and businesses with operations abroad.

STATE LEGISLATURE PASSES EDUCATION REFORM PACKAGE

After two months of debate, four education reform bills drafted by Governor Gray Davis have passed both Houses of the State Legislature and await his signature. The first of these is a bill designed to bolster reading instruction, AB 2x, authored by Assemblywoman Kerry Mazzoni (Novato). The measure received unanimous support in both houses on Monday, March 22. The bill provides \$94 million for various programs, including \$75 million to a program which authorizes local school districts to offer intensive reading sessions for kindergarten to fourth-grade students. It would also set up a \$4 million public involvement reading campaign, and provide \$2 million for a reading award program, providing awards of up to \$5,000 per school. The bill asks the University of California to establish rigorous teacher and school administration programs for highly talented students, and asks it to develop a reading instruction program jointly with California State University and other institutions.

The second bill establishes a peer-review process for teachers. It passed the Senate Monday by a vote of 23-8, and the Assembly by 54-11. Assembly Speaker Antonio Villaraigosa (Los Angeles) is the author. Observers comment that it is among the more controversial of the proposals, criticized by Senate GOP leader Ross Johnson (Irvine) as not doing enough about underperforming employees. Supporters note that many teachers are isolated and without adequate support, and that half of new teachers leave the profession in the first five years. SB 1x, authored by Sen. Deirdre Alpert (Coronado), is the third bill in the package and would direct the state superintendent of public instruction to develop an index of schools according to how well they perform. The Assembly passed the bill 59-16, and it passed the Senate Tuesday by a vote of 30-6. The bill was amended so that schools would be ranked in percentile "bands," rather than in an absolute numerical ranking.

The fourth bill (SB 2x) requires a high school graduation exam, beginning in 2004. It passed the Assembly unanimously, and the Senate 27-3 on Tuesday. It is authored by State Senator Jack O'Connell (San Luis Obispo). Details about the actual test, and the passing grade, will be devised later. Governor Davis is tentatively scheduled to sign one bill each in Sacramento, San Francisco, Los Angeles and San Diego on March 29, 30 and April 5. Davis has said he will next work with corporations to provide Internet access and more textbooks in the classrooms, and to create a more structured career path for teachers that "allows them to progress from a teacher to a mentor teacher to a master teacher."

COHEN RENEWS CALL FOR ADDITIONAL BASE CLOSURE ROUNDS

Repeating comments he has made this year, Secretary of Defense William Cohen this week promoted the idea of additional closures of U.S. military facilities. The Secretary is expected in the near future to press his case on Capitol Hill, where many legislators oppose his plan for two more rounds of military base closures in 2001 and 2005. California was hit disproportionately hard by the first four rounds of base closures, in 1988, 1991, 1993 and 1995. The state shouldered 60% of the net cuts in military personnel despite the fact that it housed just 15% of personnel before the cuts began. Cohen also cited creation of special re-use teams of military and civilian officials to speed the transfer of properties already slated for closure.